

releasable snap lock, Velcro or a magnet. The engagement means 26 is adapted to hold the end of the screening element 23 until the sash is tilted so much that all the screen material has been unwound from the roller 14, corresponding to the limited opening angle. Further, the engagement means is adapted to allow disengagement of the screen from the frame bottom member 4, while on the other hand providing a perceptible resistance to disengagement when the sash is tilted past the limited opening angle of the ventilation position. By providing a perceptible resistance to disengagement, the user is informed that the screen is disengaged. (emphasis added)". It is clear that Velcro (a trademark for a hook-and-loop type fastener) or a magnet, for example, will release by itself when the force tending to separate the Velcro hooks from the Velcro loops, or the magnet from a magnetically attracting surface, exceeds a threshold resistance. Thus, it is clear to those of ordinary skill in the art that Velcro and a magnet, for example, are self-releasable. It is also clear to those of ordinary skill in the art that a releasable snap lock as described in Paragraph [0049], that is, described as adapted to allow disengagement while providing a perceptible resistance to disengagement, is self-releasable. This engagement is much different from the screws 14 of Persson, which are not designed to separate from a substrate in which they are secured when a threshold resistance is exceeded, and which do not put the screen 7 in self-releasable engagement with a corresponding frame or sash member.

In *Commonwealth Scientific v. Buffalo Technology*, 542 F.3d 1363 (Fed. Cir. 2008), when dealing with the issue of new matter, the court stated "The question presented by this issue is whether the specification of the original application contained a written description of the invention sufficient to allow persons of ordinary skill in the art to recognize that the inventor invented the subject matter that is claimed in the asserted claims." It is clear that persons of

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ordinary skill in the art would recognize that the inventor in the present application invented a window in which the at least one screening element is in self-releasable engagement with the corresponding frame or sash member.

Reconsideration of the rejection of claims 18 and 19 under 35 USC 102 on the ground that all of their subject matter is disclosed in the Persson reference (US 2,311,413) is respectfully requested. In the “Response to Arguments” section of the Office Action, the Examiner states that “self-releasable” is broad and contains more function than structure. The applicant points out that however broad a term is, the applicant is entitled to that breadth if the prior art does not disclose subject matter within that breadth. Persson does not disclose a screening element that is in self-releasable engagement with a corresponding frame or sash member, as, for example, Velcro or a magnet would provide. Thus, Persson does not anticipate claim 18. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The fact that a feature has functional limitations does not change the anticipation requirement.

In addition, in the “Response to Arguments” section, the Examiner contends that the prior art screen engages the sash in more ways than the instant application and that such engagement does not mean that the limitations are not met. However, the Examiner is required to establish a *prima facie* case that the limitations are met. Furthermore, in the case of claim 18, which recites “wherein said at least one screening element is provided exclusively at the top and/or bottom member of the sash and the frame”, Persson fails to disclose a screening element provided exclusively at the top and/or bottom member of the sash and the frame, because its screen is also

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provided elsewhere. In view of the “exclusively” limitation of claim 18, the engagement of the Persson screen elsewhere does mean that the limitations are not met. In this regard, MPEP Section 2173.05(i), Negative Limitations, states: “The current view of the courts is that there is nothing inherently ambiguous or uncertain about a negative limitation. So long as the boundaries of the patent protection sought are set forth definitely, albeit negatively, the claim complies with the requirements of 35 U.S.C. 112, second paragraph.”

In view of the foregoing, the window of claim 18 is different from the window of Persson in at least two respects: 1) by the at least one screening element being in self-releasable engagement with the corresponding frame or sash member, and 2) by the at least one screening element being provided exclusively at the top and/or bottom member of the sash and the frame.

Reconsideration of the rejection of claims 20-23, 29 and 36 under 35 USC 103 as being obvious over the Persson reference in view of the MacDonald reference also is respectfully requested. The Examiner did not respond to the arguments against this ground of rejection that were presented in the Amendment filed in April 2009, except to say that Persson discloses a coiled spring (3). However, in fact, the element (3) is clearly identified in Persson as a roller.

Claims 20-23 depend, at least ultimately, on independent claim 18. The MacDonald reference fails to overcome the deficiencies of the Persson reference with respect to claim 18 that were described above. In fact, with respect to the feature of claim 18 that the screening element is “provided exclusively at the top and/or bottom member of the sash and the frame,” MacDonald reinforces the deficiencies of the Persson reference that screen members 4 are provided at side members of the sash and the frame.

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Reconsideration of the rejection of claims 31-34 under 35 USC 103 as being obvious over the Persson reference in view of the Camara reference also is respectfully requested. Claims 31-34 depend, at least ultimately, on independent claim 18. The Camara reference fails to overcome the deficiencies of the Camara reference with respect to claim 18 that were described above. In fact, Camara reinforces the deficiencies of the Persson reference that screen portions 17a, 17c are provided at side members of the sash and the frame.

In view of the foregoing, it is submitted that all of the claims are allowable and that the application is in condition for allowance. An early notice to that effect is respectfully requested.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0562.

Respectfully submitted,

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